

Message Text

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21

ACTION PER-03

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E.O. 11652: N/A
TAGS: APER AFSP FJ
SUBJ: USG PARTICIPATION IN FIJI NATIONAL PROVIDENT FUND
(FNPF)

REF: DEPT'S A-5752 OF JULY 19, 1974

1. DRAFT DIPLOMATIC NOTE CONTAINED IN REFAIR WAS FORWARDED TO GOF AUGUST 7, 1974. AFTER LENGTHY CONSIDERATION, GOF (SECTY FONAFF) HAS RESPONDED IN LETTER DATED NOVEMBER 25, AND IT APPEARS THAT STUMBLING BLOCKS OF 1966 CONTINUEE TO MAKE AGREEMENT AS PROPOSED IMPOSSIBLE. ALTHOUGH EMBASSY CAN CLAIM DIPLOMATIC IMMUNITY, PEACE CORPS IS AFFECTED AND LEGALLY MAY BE PROSECUTED. PARADOX OF SITUATION IS THAT BOTH EMBASSY AND PC/FIJI ARE EAGER TO PARTICIPATE IN FNPC, WHICH IS EXCELLENT SOCIAL SECURITY SYSTEM, FOR ITS LOCAL EMPLOYEES BUT CANNOT DO SO BECAUSE OF CONFLICTS IN LAWS OF US AND FIJI.

2. SUBSTANCE OF LETTER FOLLOWS: FNPF ORDINANCE DOES NOT CONTAIN PROVISIONS PERMITTING GOF TO ENTER INTO TYPE OF AGREEMENT THAT USG HAS PROPOSED. I AM WRITING TO ENQUIRE WHETHER EVEN WITHOUT THE TYPE OF EXECUTIVE AGREEMENT USG HAS PROPOSED IT WOULD STILL BE POSSIBLE FOR USG TO PARTICIPATE IN FNPF IN RESPECT OF CATEGORY OF EMPLOYEES OF EMBASSY AND PEACE CORPS.

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OTHER DIPLOMATIC MISSION BASED IN FIJI ARE ALREADY PARTICIPATING IN FNP IN RESPECT OF THEIR EMPLOYEES WHO ARE FIJI NATIONALS OR PERMANENT FIJI RESIDENTS. FNP MAY ALSO INITIATE LEGAL PROCEEDINGS, THOUGH I APPRECIATE THAT EMBASSY MAY CLAIM IMMUNITY FROM EXERCISE OF LOCAL JURISDICTION BY VIRTURE OF DIPLOMATIC IMMUNITY GRANTED UNDER FIJI DIPLOMATIC PRIVILEGES AND IMMUNITIES ACT OF 1971. HOWEVER, PEACE CORPS PROGRAM AGREEMENT CONCLUDED BETWEEN THE USG AND GOF IN JUNE 1968 DOES NOT ACCORD SAME IMMUNITY TO PEACE CORPS IN FIJI NOR HAS THIS BEEN GRANTED UNDER DIPLOMATIC PRIVILEGES AND IMMUNITIES ACT OF 1971.

IN CIRCUMSTANCES, IF FOR LEGISLATIVE REASONS IT IS NOT POSSIBLE FOR USG TO PARTICIPATE IN FNP IN RESPECT OF EMPLOYEES OF EMBASSY AND PEACE CORPS WHO ARE FIJI NATIONALS OR PERMANENT RESIDENTS, AND IN ORDER TO REGULARIZE YOUR POSITION UNDER THE FNP ORDINANCE, IT WILL BE NECESSARY FOR YOU TO SUBMIT A FORMAL APPLICATION FOR THE EXEMPTION OF EMBASSY AND PEACE CORPS FROM THE PROVISIONS OF THE FNP ORDINANCE, STATING FULLY THE REASONS FOR SEEKING SUCH AN EXEMPTION. END LETTER

3. FNP WAS DRAWN UP AND IS PRESENTLY MANAGED BY BRITISHER WHO WAS EARLIER INVOLVED IN ESTABLISHMENT OF SIMILAR FUNDS IN MALAYSIA, SINGAPORE AND POSSIBLY NIGERIA. IF LEGISLATION FOR THESE THREE FUNDS IS IN FACT LIKE THAT OF FNP, A SOLUTION TO PROBLEM MAY ALREADY HAVE BEEN FOUND IN ONE OF THOSE COUNTRIES.

4. MANAGER OF FNP IS TYPE OF PERSON WHO IS PERFECTLY CAPABLE OF EXERCISING HIS PREROGATIVES IN BRINGING CHARGES AGAINST PEACE CORPS DIRECTOR, SOMETHING HE HAS ALREADY THREATENED. IN JUNE OF THIS YEAR, FOR EXAMPLE, IN LETTER TO SECTY FONAFF, MANAGER STATED QUOTE IF SOMETHING IS NOT DONE SOON THE BOARD WILL HAVE NO ALTERNATIVE BUT TO TAKE PROCEEDINGS AGAINST THE OFFENDING BODY (I.E. PC/FIJI) FOR FAILURE TO PAY FNP CONTRIBUTIONS. UNQUOTE.

5. ALTHOUGH EMBASSY DOES NOT STAND TO SUFFER FROM IMPASSE IN SAME WAY AS PEACE CORPS, EMBASSY TOO WOULD WELCOME OPPORTUNITY TO PARTICIPATE IN FNP. OF FIVE LOCAL EMPLOYEES, THREE HAVE BEEN WITH EMBASSY FOR LONG PERIODS AND ARE UNCLASSIFIED

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COVERED BY CSR. TWO RECENTLY EMPLOYED FSLS (ONE USIA), HOWEVER, HAVE BEEN PAYING INTO FNP IN PREVIOUS JOBS AND WOULD LIKE TO CONTINUE.

6. NEEDLESS TO SAY, EMBASSY AND PC/FIJI WISH TO AVOID CONFRONTATION WITH FNP AND PUBLICITY THAT SUCH WOULD ENGENDER, AND SINCERELY HOPE DEPT WILL BE ABLE TO FIND SOLUTION TO PROBLEM THAT WILL SATISFY BOTH US AND FIJI LAWS. PLEASE

ADVISE AT EARLIEST CONVENIENCE.

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